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PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT
OR THE DECLARATION

(PCT Rule 44.1)

To:

MYERS BIGEL SIBLEY & SAJOVEC, P.A.
P.O. Box 37428
Raleigh, North Carolina 27627
UNITED STATES OF AMERICA

12-29-03 A09:37 IN

Date of mailing
(day/month/year)

23/12/2003

Applicant's or agent's file reference

9336.2.WO

FOR FURTHER ACTION

See paragraphs 1 and 4 below

International application No.

PCT/US 03/14619

International filing date
(day/month/year)

08/05/2003

Applicant

ORIEL THERAPEUTICS, INC.

1. ☒ The applicant is hereby notified that the International Search Report has been established and is transmitted herewith.

Filing of amendments and statement under Article 19:

The applicant is entitled, if he so wishes, to amend the claims of the International Application (see Rule 46):

When? The time limit for filing such amendments is normally 2 months from the date of transmittal of the International Search Report; however, for more details, see the notes on the accompanying sheet.

Where? Directly to the International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland
Facsimile No.: (41-22) 740.14.35

For more detailed instructions, see the notes on the accompanying sheet.

2. ☐ The applicant is hereby notified that no International Search Report will be established and that the declaration under Article 17(2)(a) to that effect is transmitted herewith.

3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:

☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.

☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

4. **Further action(s):** The applicant is reminded of the following:

Shortly after **18 months** from the priority date, the international application will be published by the International Bureau.

If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

Within **19 months** from the priority date, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later).

Within **20 months** from the priority date, the applicant must perform the prescribed acts for entry into the national phase before all designated Offices which have not been elected in the demand or in a later election within 19 months from the priority date or could not be elected because they are not bound by Chapter II.

Name and mailing address of the International Searching Authority



European Patent Office, P.B. 5818 Patentlaan 2
NL-2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Eva San Miguel

DOCKETED

By sd
Date 12/29

NOTES TO FORM PCT/ISA/220

These Notes are intended to give the basic instructions concerning the filing of amendments under article 19. The Notes are based on the requirements of the Patent Cooperation Treaty, the Regulations and the Administrative Instructions under that Treaty. In case of discrepancy between these Notes and those requirements, the latter are applicable. For more detailed information, see also the PCT Applicant's Guide, a publication of WIPO.

In these Notes, "Article", "Rule", and "Section" refer to the provisions of the PCT, the PCT Regulations and the PCT Administrative Instructions, respectively.

INSTRUCTIONS CONCERNING AMENDMENTS UNDER ARTICLE 19

The applicant has, after having received the international search report, one opportunity to amend the claims of the international application. It should however be emphasized that, since all parts of the international application (claims, description and drawings) may be amended during the international preliminary examination procedure, there is usually no need to file amendments of the claims under Article 19 except where, e.g. the applicant wants the latter to be published for the purposes of provisional protection or has another reason for amending the claims before international publication. Furthermore, it should be emphasized that provisional protection is available in some States only.

What parts of the international application may be amended?

Under Article 19, only the claims may be amended.

During the international phase, the claims may also be amended (or further amended) under Article 34 before the International Preliminary Examining Authority. The description and drawings may only be amended under Article 34 before the International Examining Authority.

Upon entry into the national phase, all parts of the international application may be amended under Article 28 or, where applicable, Article 41.

When?

Within 2 months from the date of transmittal of the international search report or 16 months from the priority date, whichever time limit expires later. It should be noted, however, that the amendments will be considered as having been received on time if they are received by the International Bureau after the expiration of the applicable time limit but before the completion of the technical preparations for international publication (Rule 46.1).

Where not to file the amendments?

The amendments may only be filed with the International Bureau and not with the receiving Office or the International Searching Authority (Rule 46.2).

Where a demand for international preliminary examination has been/is filed, see below.

How?

Either by cancelling one or more entire claims, by adding one or more new claims or by amending the text of one or more of the claims as filed.

A replacement sheet must be submitted for each sheet of the claims which, on account of an amendment or amendments, differs from the sheet originally filed.

All the claims appearing on a replacement sheet must be numbered in Arabic numerals. Where a claim is cancelled, no renumbering of the other claims is required. In all cases where claims are renumbered, they must be renumbered consecutively (Administrative Instructions, Section 205(b)).

The amendments must be made in the language in which the international application is to be published.

What documents must/may accompany the amendments?

Letter (Section 205(b)):

The amendments must be submitted with a letter.

The letter will not be published with the international application and the amended claims. It should not be confused with the "Statement under Article 19(1)" (see below, under "Statement under Article 19(1)").

The letter must be in English or French, at the choice of the applicant. However, if the language of the international application is English, the letter must be in English; if the language of the international application is French, the letter must be in French.

NOTES TO FORM PCT/ISA/220 (continued)

The letter must indicate the differences between the claims as filed and the claims as amended. It must, in particular, indicate, in connection with each claim appearing in the international application (it being understood that identical indications concerning several claims may be grouped), whether

- (i) the claim is unchanged;
- (ii) the claim is cancelled;
- (iii) the claim is new;
- (iv) the claim replaces one or more claims as filed;
- (v) the claim is the result of the division of a claim as filed.

The following examples illustrate the manner in which amendments must be explained in the accompanying letter:

1. [Where originally there were 48 claims and after amendment of some claims there are 51]:
"Claims 1 to 29, 31, 32, 34, 35, 37 to 48 replaced by amended claims bearing the same numbers; claims 30, 33 and 36 unchanged; new claims 49 to 51 added."
2. [Where originally there were 15 claims and after amendment of all claims there are 11]:
"Claims 1 to 15 replaced by amended claims 1 to 11."
3. [Where originally there were 14 claims and the amendments consist in cancelling some claims and in adding new claims]:
"Claims 1 to 6 and 14 unchanged; claims 7 to 13 cancelled; new claims 15, 16 and 17 added." or
"Claims 7 to 13 cancelled; new claims 15, 16 and 17 added; all other claims unchanged."
4. [Where various kinds of amendments are made]:
"Claims 1-10 unchanged; claims 11 to 13, 18 and 19 cancelled; claims 14, 15 and 16 replaced by amended claim 14; claim 17 subdivided into amended claims 15, 16 and 17; new claims 20 and 21 added."

"Statement under article 19(1)" (Rule 46.4)

The amendments may be accompanied by a statement explaining the amendments and indicating any impact that such amendments might have on the description and the drawings (which cannot be amended under Article 19(1)).

The statement will be published with the international application and the amended claims.

It must be in the language in which the international application is to be published.

It must be brief, not exceeding 500 words if in English or if translated into English.

It should not be confused with and does not replace the letter indicating the differences between the claims as filed and as amended. It must be filed on a separate sheet and must be identified as such by a heading, preferably by using the words "Statement under Article 19(1)."

It may not contain any disparaging comments on the international search report or the relevance of citations contained in that report. Reference to citations, relevant to a given claim, contained in the international search report may be made only in connection with an amendment of that claim.

Consequence if a demand for international preliminary examination has already been filed

If, at the time of filing any amendments and any accompanying statement, under Article 19, a demand for international preliminary examination has already been submitted, the applicant must preferably, at the time of filing the amendments (and any statement) with the International Bureau, also file with the International Preliminary Examining Authority a copy of such amendments (and of any statement) and, where required, a translation of such amendments for the procedure before that Authority (see Rules 55.3(a) and 62.2, first sentence). For further information, see the Notes to the demand form (PCT/IPEA/401).

Consequence with regard to translation of the international application for entry into the national phase

The applicant's attention is drawn to the fact that, upon entry into the national phase, a translation of the claims as amended under Article 19 may have to be furnished to the designated/elected Offices, instead of, or in addition to, the translation of the claims as filed.

For further details on the requirements of each designated/elected Office, see Volume II of the PCT Applicant's Guide.

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 9336.2.WO	FOR FURTHER ACTION <small>see Notification of Transmittal of International Search Report (Form PCT/ISA/220) as well as, where applicable, item 5 below.</small>	
International application No. PCT/US 03/14619	International filing date (day/month/year) 08/05/2003	(Earliest) Priority Date (day/month/year) 10/05/2002
Applicant ORIEL THERAPEUTICS, INC.		

This International Search Report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This International Search Report consists of a total of 9 sheets.

☒ It is also accompanied by a copy of each prior art document cited in this report.

1. Basis of the report

a. With regard to the **language**, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ the international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).

b. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international search was carried out on the basis of the sequence listing :

☐ contained in the international application in written form.

☐ filed together with the international application in computer readable form.

☐ furnished subsequently to this Authority in written form.

☐ furnished subsequently to this Authority in computer readable form.

☐ the statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.

☐ the statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished

2. ☒ **Certain claims were found unsearchable** (See Box I).

3. ☒ **Unity of invention is lacking** (see Box II).

4. With regard to the **title**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established by this Authority to read as follows:

**DRY POWDER INHALER FOR USE WITH PIEZOELECTRIC POLYMER-DRIVEN DELIVERY MEANS,
AND ASSOCIATED BLISTER PACKAGE COMPRISING A PIEZOELECTRIC POLYMER MATERIAL**

5. With regard to the **abstract**,

☐ the text is approved as submitted by the applicant.

☒ the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box III. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

6. The figure of the **drawings** to be published with the abstract is Figure No.

☐ as suggested by the applicant.

☒ because the applicant failed to suggest a figure.

☐ because this figure better characterizes the invention.

8
☐ None of the figures.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/US 03/ 14619

Box III TEXT OF THE ABSTRACT (Continuation of item 5 of the first sheet)

The present invention includes dry powder inhalers and associated multi-dose dry powder packages for holding inhalant formulated dry powder substances. The multi-dose package (100) comprises at least one thin piezoelectric polymer material layer (28) defining at least a portion of a plurality of spatially separated discrete elongate dry powder channels (101) having an associated length, width and height; and a metallic material (100m) attached to selected portions of the piezoelectric polymer material (28) including each of the regions corresponding to the elongate dry powder channels (101) to, in operation, define active energy releasing vibratory channels. In operation, the elongate channels can be selectively individually activated to vibrate upon exposure to an electrical input. The dry powder inhaler (10) includes an elongate body (10b) having opposing first and second outer primary surfaces (11,12) with a cavity (10c) therebetween and a multi-dose sealed blister package (100) located in the said cavity (10c).

The inhaler (10) also includes a cover member (15) that is pivotably attached to the elongate body (10b).

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 03/14619

A. CLASSIFICATION OF SUBJECT MATTER
IPC 7 A61M15/00

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)

IPC 7 A61M A61J B65D B06B B05B

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practical, search terms used)

EPO-Internal, WPI Data, PAJ

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X	<p>WO 01 68169 A (CROWDER TIMOTHY M ;UNIV NORTH CAROLINA (US); HICKEY ANTHONY J (US)) 20 September 2001 (2001-09-20) cited in the application</p> <p>page 4, line 28-30 page 10, line 7-23 page 15, line 5 -page 16, line 32 page 18, line 3-11 page 19, line 22,23 page 25, line 28 -page 27, line 17 page 31, line 30 -page 32, line 3 figures 1,2,3A-3D claims 50,51</p> <p style="text-align: center;">--- -/--</p>	<p>1-4,6, 8-12, 20-28, 30,31, 62-67</p>

☒ Further documents are listed in the continuation of box C.

☒ Patent family members are listed in annex.

* Special categories of cited documents :

- "A" document defining the general state of the art which is not considered to be of particular relevance
- "E" earlier document but published on or after the international filing date
- "L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)
- "O" document referring to an oral disclosure, use, exhibition or other means
- "P" document published prior to the international filing date but later than the priority date claimed

"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention

"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone

"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art.

"&" document member of the same patent family

Date of the actual completion of the international search

11 December 2003

Date of mailing of the international search report

23.12.03

Name and mailing address of the ISA

European Patent Office, P.B. 5818 Patentlaan 2
NL - 2280 HV Rijswijk
Tel. (+31-70) 340-2040, Tx. 31 651 epo nl,
Fax: (+31-70) 340-3016

Authorized officer

Azaizia, M

INTERNATIONAL SEARCH REPORT

International Application No

PCT/US 03/14619

C.(Continuation) DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
A	EP 1 106 196 A (ATSUGI UNISIA CORP ;DOTT LTD COMPANY (JP)) 13 June 2001 (2001-06-13) column 19, line 27 -column 23, line 50 figures 20-31 ---	10,12, 23-26,28
A	US 5 622 166 A (CAMERON ALLAN ET AL) 22 April 1997 (1997-04-22) column 3, line 52 -column 4, line 17 figures 10-15 ---	31
A	EP 1 166 812 A (MICRODOSE TECHNOLOGIES INC) 2 January 2002 (2002-01-02) column 6, line 44 -column 7, line 35 column 7, line 42-54 column 8, line 10-13 figures 1A,1B,2-5,6A,6B ---	1,7,13
X	EP 1 172 122 A (TECHNOLOGY PARTNERSHIP) 16 January 2002 (2002-01-16) column 1, line 42-48 column 1, line 55 -column 2, line 9 column 3, line 4 -column 4, line 19 figures 1-4 ---	32, 37-39, 42-45
X	US 5 388 572 A (FOXEN THOMAS ET AL) 14 February 1995 (1995-02-14) column 8, line 44 -column 11, line 22 figures 5-12C ---	33-36
X	EP 0 129 985 A (GLAXO GROUP LTD) 2 January 1985 (1985-01-02) page 4, line 6 -page 5, line 16 figures 3-6 ---	32
A	US 4 778 054 A (NEWELL ROBERT E ET AL) 18 October 1988 (1988-10-18) column 4, line 8 -column 5, line 4 column 5, line 27-68 figures 3,4,6,7 ---	42,43
A	US 5 921 237 A (HOLTON NELSON ET AL) 13 July 1999 (1999-07-13) column 3, line 29-32 figure 5 -----	45

INTERNATIONAL SEARCH REPORT

International application No.
PCT/US 03/14619

Box I Observations where certain claims were found unsearchable (Continuation of item 1 of first sheet)

This International Search Report has not been established in respect of certain claims under Article 17(2)(a) for the following reasons:

1. ☒ Claims Nos.: 68-94
because they relate to subject matter not required to be searched by this Authority, namely:
Rule 39.1(iv) PCT - Method for treatment of the human or animal body by therapy.
2. ☐ Claims Nos.:
because they relate to parts of the International Application that do not comply with the prescribed requirements to such an extent that no meaningful International Search can be carried out, specifically:
3. ☐ Claims Nos.:
because they are dependent claims and are not drafted in accordance with the second and third sentences of Rule 6.4(a).

Box II Observations where unity of invention is lacking (Continuation of item 2 of first sheet)

This International Searching Authority found multiple inventions in this international application, as follows:

see additional sheet

1. ☐ As all required additional search fees were timely paid by the applicant, this International Search Report covers all searchable claims.
2. ☐ As all searchable claims could be searched without effort justifying an additional fee, this Authority did not invite payment of any additional fee.
3. ☒ As only some of the required additional search fees were timely paid by the applicant, this International Search Report covers only those claims for which fees were paid, specifically claims Nos.:
1-13, 20-67
4. ☐ No required additional search fees were timely paid by the applicant. Consequently, this International Search Report is restricted to the invention first mentioned in the claims; it is covered by claims Nos.:

Remark on Protest

- ☐ The additional search fees were accompanied by the applicant's protest.
- ☒ No protest accompanied the payment of additional search fees.

FURTHER INFORMATION CONTINUED FROM PCT/ISA/ 210

This International Searching Authority found multiple (groups of) inventions in this international application, as follows:

1. Claims: 1, 7-13, 20-28 and 31

A multi-dose dry powder package with a plurality of specially designed elongated channels.

2. Claims: 2-6, 29 and 30

A multi-dose dry powder package in combination with an input signal generating circuit.

3. Claims: 14-18

Multi-dose dry powder packages held in proximately spaced stacked relationship during use.

4. Claim : 19

A multi-dose dry powder package comprising a plurality of airflow and/or differential pressure sensors.

5. Claims: 32-61

A dry powder inhaler comprising an elongated body.

6. Claims: 62-67

A method for fabricating a multi-dose dry powder package.

INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/14619

Patent document cited in search report		Publication date	Patent family member(s)	Publication date
WO 0168169	A	20-09-2001	AU 3110201 A BR 0109127 A CA 2400349 A1 CN 1416357 T EP 1267969 A1 JP 2003526480 T NO 20024311 A WO 0168169 A1	24-09-2001 22-04-2003 20-09-2001 07-05-2003 02-01-2003 09-09-2003 11-11-2002 20-09-2001
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INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/14619

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INTERNATIONAL SEARCH REPORT

Information on patent family members

International Application No

PCT/US 03/14619

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